

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA**

JAMES HARLAN LYNN,)	
)	
Petitioner,)	
)	
v.)	Case No. CIV-21-888-D
)	
JOSEPH MICIELI, Acting Warden,)	
FCI, El Reno,)	
)	
Respondent.)	

ORDER

This matter is before the Court for review of the Report and Recommendation issued by United States Magistrate Judge Shon T. Erwin pursuant to 28 U.S.C. § 636(b)(1)(B) and (C). Judge Erwin recommends that Petitioner’s Petition for Writ of Habeas Corpus [Doc. No. 1] be denied.¹

The case file shows no timely objection to the Report nor request for an extension of time, even though Petitioner was expressly informed of his right to object and the consequences of failing to object. Therefore, the Court finds that Petitioner has waived further review of all issues addressed in the Report. *See Moore v. United States*, 950 F.2d 656, 659 (10th Cir. 1991); *United States v. 2121 East 30th Street*, 73 F.3d 1057, 1060 (10th

¹ Judge Erwin ordered Respondent to file an answer to the Petition [Doc. No. 10]. Respondent then filed a Motion to Dismiss [Doc. No. 12], which Judge Erwin construed as a response to the Petition.

Cir. 1996). For the reasons explained by Judge Erwin, the Court finds that Petitioner's Petition must be denied.

IT IS THEREFORE ORDERED that the Report and Recommendation [Doc. No. 14] is ADOPTED in its entirety. Petitioner's Petition for Writ of Habeas Corpus under 28 U.S.C. §§ 2241 [Doc. No. 1] is DENIED. Judgment shall be entered accordingly.

IT IS FURTHER ORDERED that pursuant to Rule 11(a) of the Rules Governing Section 2254 Cases, the Court must issue or deny a certificate of appealability ("COA") when it enters a final order adverse to a petitioner. A COA may issue only upon "a substantial showing of the denial of a constitutional right." 28 U.S.C. §2253(c)(2). "A petitioner satisfies this standard by demonstrating that jurists of reason could disagree with the district court's resolution of his constitutional claims or that jurists could conclude the issues presented are adequate to deserve encouragement to proceed further." *Miller El v. Cockrell*, 537 U.S. 322, 327 (2003). Upon consideration, the Court finds the requisite standard is not met in this case. Therefore, a COA is denied.

IT IS SO ORDERED this 29th day of April, 2022



TIMOTHY D. DeGIUSTI
Chief United States District Judge